

REMARKS

The Office Action mailed on December 19, 2002 and the references cited therewith have been carefully reviewed and considered. By this amendment, claims 1, 8, 14 and 15 are amended and claims 16 and 18 have been canceled, such that claims 1-15, 17, 19 and 20 are currently pending. No new matter has been added.

Rejection under 35 U.S.C. § 102

Claims 1, 4-6, 8 and 11-13 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,404,727 to Rao (hereinafter "Rao").

Independent claim 1 recites an actuator having a cavity as well as a pivot having a first component positioned within the cavity. The Office action states on page 3 that Rao shows a pivot within an actuator cavity, but Rao's Figs. 7a-7e show no such arrangement. For at least this reason, it should be clear that claim 1 is not anticipated by Rao; as such, withdrawal of the rejection as to claim 1 is respectfully requested.

Claims 4-6 depend from claim 1 and are similarly allowable. However, some of these claims are allowable for additional reasons.

For example, claim 4 recites "washers." Page 3 of the Office action states that Rao discloses washers in col. 6, lines 17-24. This is untrue, and it is unclear why the Office would distort the clear meaning of the identified text.

Regarding claim 5, the Examiner states that it is "inherent" that Rao's pivot axis and actuator center of mass are coincident. The Office demonstrates a clear misunderstanding of inherency. The Examiner seems to be suggesting that this feature is desirable and thus should be inherent. While the feature is in fact desirable, as described in the present specification, it certainly cannot be described as "inherent." If the Office insists upon rejecting this claim, it is respectfully requested that a reasonable basis be stated for doing so.

Similarly, independent claim 8 as filed recites an actuator having a cavity as well as a pivot having first and second components positioned within the cavity. The Office

action states on page 3 that Rao shows a pivot within an actuator cavity, but Rao's Figs. 7a-7e show no such arrangement. For at least this reason, it should be clear that claim 8 is not anticipated by Rao; as such, withdrawal of the rejection as to claim 8 is respectfully requested.

Claims 11-13 depend from claim 8 and are similarly allowable, but claims 11 and 12 are allowable for at least the additional reasons set forth above with respect to claims 4 and 5.

Claims 15-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,424,503 to Chin et al. (hereinafter "Chin").

Claim 15 recites "means for pivotably coupling the actuator to the base." This claim thus invokes 35 U.S.C. § 112, sixth paragraph. Whatever the result may have been under prior PTO practice, the PTO must construe functional limitations in accordance with the corresponding structure disclosed in the specification when examining patents. In re Donaldson, 29 U.S.P.Q.2d 1845 (Fed. Cir. 1994) (en banc). Applicant's corresponding structure at the least includes first and second flexible leaves positioned within the actuator cavity. Chin clearly does not disclose this structure. As such, claim 15 is not anticipated by the prior art, and withdrawal of the rejection under § 102(b) is respectfully requested.

Claims 16 and 18 have been canceled; claims 17, 19 and 20 depend from claim 15 and are similarly allowable.

Rejection under 35 U.S.C. § 103

Claims 3, 7, 10 and 14 were rejected as being obvious over Rao.

Claims 3 and 7 are allowable by virtue of their dependence from claim 1, which is allowable for reasons set forth above. However, these claims are allowable for additional reasons.

For example, claim 3 recites that the actuator cavity includes a recess for locating the first pivot member. Lacking any support for such a feature in the prior art, the

Office takes Official notice that to do so “is notoriously old and well known in the art.” Given that Rao does not even show a cavity, much less a pivot member in a cavity, it takes quite a bit of imagination to imagine that it would nonetheless be well known to provide a recess therein for locating that pivot member. Applicant challenges the Office to produce the slightest evidence that the claimed arrangement is in fact notorious and well known. Absent such evidence, it is clear that the rejection is without basis and that claim 3 is allowable.

Claim 7 recites a second housing component to which the second pivot member is coupled. Again lacking any actual support in the prior art, the Office takes Official notice that it is notoriously old and well known to do so. As clearly explained on page 6 of the present specification, the second member 58 may advantageously be fixed to two housing components. Rao, on the other hand, shows analogous second components 30 which are fixed to a single component 300. There is no logic in existence which would suggest coupling these elements 30 to a second component. Applicant challenges the Office to produce the slightest evidence in the prior art that the claimed arrangement is in fact notorious and well known. Absent such evidence, it is clear that the rejection is without basis and that claim 7 is allowable.

Claims 10 and 14 are allowable for the same reasons as those set forth above with respect to claim 10 and 14.

Allowable Subject Matter

The Examiner is thanked for the indication that claims 2 and 9 include allowable subject matter. They are not being rewritten in independent form at this time because it is believed that independent claims 1 and 8 are allowable as written.

Conclusion

For these reasons, Applicant respectfully asserts that present claims particularly point out and distinctly claim the subject matter which is regarded as the invention. In addition, the present invention as claimed is not taught by the prior art of record or any combination thereof. Therefore, it is respectfully submitted that the pending claims are in condition for allowance, and favorable action with respect to the present application is respectfully requested.

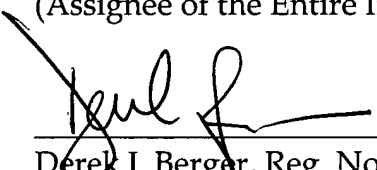
If the Examiner is not satisfied, but minor changes would apparently put the present case in condition for allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

Seagate Technology LLC
(Assignee of the Entire Interest)

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Date


Derek J. Berger, Reg. No. 45,401

Seagate Technology LLC
Intellectual Property Department - COL2LGL
389 Disc Drive
Longmont, CO 80503
(720) 684-2265 (telephone)
(720) 684-2588 (facsimile)